

Remarks

Reconsideration of this Application is respectfully requested.

I. Status of the Claims

Upon entry of the foregoing amendment, claims 1, 4, 7, 22, 23, 25, 26, 54, 57-65, 68, 71, and 79-101 are pending in the application, with claim 1 being the independent claim. Claims 5, 6, 69, and 70 are sought to be cancelled without prejudice to or disclaimer of the subject matter therein.

Claims 1, 7, and 71 are sought to be amended. Claim 1 has been amended to limit the 4*H*-pyrrolo[2,3-*h*]chromenes to those wherein Y is CN and Z is NR₂₂R₂₃ wherein R₂₂ and R₂₃ are independently H or C₁₋₄ alkyl. These changes are believed to introduce no new matter, and their entry is respectfully requested.

Based on the above amendments and the following remarks, Applicants respectfully request that the Examiner reconsider all outstanding objections and rejections and that they be withdrawn.

II. Restriction Requirement

The Examiner has maintained that the restriction requirement has not been complied with and should be amended with respect to Z and Y. (Office Action, page 2, lines 18-19).

The amended claims recite 4*H*-pyrrolo[2,3-*h*]chromenes wherein Y is CN and Z is NR₂₂R₂₃ wherein R₂₂ and R₂₃ are independently H or C₁₋₄ alkyl. Therefore, the amended claims are in compliance with the restriction requirement.

Withdrawal of the restriction requirement is respectfully requested.

III. Rejection of Claims 1, 4-7, 22, 23, 25, 26, 54, 57-64, 92, 9-96, 99, and 100 based on Nonstatutory Obviousness-type Double Patenting

The Examiner has provisionally rejected claims 1, 4-7, 22, 23, 25, 26, 54, 57-64, 93-96, 99, and 100 on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 48, 54, 57, 59, 66, 74-77, 96, and 98 of co-pending U.S. Patent Appl. No. 10/514,426 (hereinafter "the '426 application") to Cai *et al.* (Office Action, page 4, lines 4-6). Applicants respectfully traverse this rejection.

The Examiner states that the conflicting claims are not identical, but they are "not patently distinct from each other because they cover the same compounds and compositions when in the '426 application B is indole or optionally substituted benzo." (Office Action, page 4, lines 7-9). Applicants respectfully disagree.

The '426 application does not claim the 4*H*-pyrrolo[2,3-*h*]chromenes of the present application. The '426 application is drawn to compounds wherein Z is H, OH, OR₈ or OCOR₈ whereas the claims of the present application are drawn to compounds wherein Z is NR₂₂R₂₃. Therefore, the claims of the '426 application do not cover the same compounds and compositions because they do not recite compounds containing the same Z group.

The Examiner has provided no reason why one would substitute NR₂₂R₂₃ as the Z group in the present application for H, OH, OR₈ or OCOR₈ as the Z group in the compounds of the '426 application. Therefore, withdrawal of the rejection is respectfully requested.

Conclusion

All of the stated grounds of objection and rejection have been properly traversed, accommodated, or rendered moot. Applicants therefore respectfully request that the Examiner reconsider all presently outstanding objections and rejections and that they be withdrawn. Applicants believe that a full and complete reply has been made to the outstanding Office Action and, as such, the present application is in condition for allowance. If the Examiner believes, for any reason, that personal communication will expedite prosecution of this application, the Examiner is invited to telephone the undersigned at the number provided.

Prompt and favorable consideration of this Amendment and Reply is respectfully requested.

Respectfully submitted,

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